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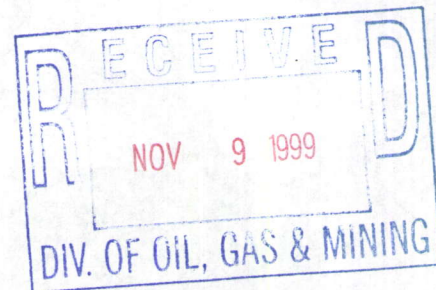
U-77037

(UT-023)

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Salt Lake Field Office
2370 South 2300 West
Salt Lake City, Utah 84119



NOV 05 1999

Jerry North, Geologist
Interstate Brick Company
9780 South 5200 West
West Jordan, Utah 84088

Dear Mr. North:

On August 24, 1999, we received your Jim Gay Plan of Operations to expand the existing boundaries and mine shale in the Lake Mountain area in T. 7 S., R. 1 W., Section 12. We have assigned this Plan of Operations serial number U-77037. Please refer to this serial number in all future correspondence relating to this Plan.

It is our opinion that you are proposing to mine common variety mineral materials (salable minerals) under the auspices of the mining law. On July 23, 1955, Public Law 167 (69 Stat. 368; 30 U.S.C. 611) was passed to prohibit further location of common variety minerals. The Act stated:

No deposit of common varieties of sand, stone, gravel, pumice, or cinders and no deposit of petrified wood shall be deemed a valuable mineral deposit within the meaning of the mining laws of the United States so as to give effective validity to any mining claim hereafter located under such mining laws.

For minerals to be uncommon, and therefore locatable, they must meet the following criteria, as cited in McClarty v. Secretary of Interior, 408 F. 2d. 907, 980 (9th Cir. 1969):

1. There must be a comparison of the mineral deposit in question with other deposits of such minerals generally;
2. The mineral deposit in question must have a unique property;
3. The unique property must give the deposit a distinct and special value;
4. If the special value is for uses to which ordinary varieties of the mineral are put, the deposit must have some distinct and special value for such use; and

5. The distinct and special value must be reflected by the higher price which the material commands in the market place, or by reduced cost or overhead so that the profit to the claimant would be substantially more.

An option that is available to you is for you to purchase the subject material under the BLM's mineral material disposal regulations at 43 CFR 3600. The price of shale is \$0.52/ton. We have enclosed a copy of these regulations for your use. Please be advised that removal of mineral material without an approved Plan of Operations or mineral material sale contract will be considered a willful trespass.

If you still wish to mine shale under the authority of the Mining Law of 1872, this office will have to determine the locatability of the mineral prior to further processing of the Plan of Operations. If it is determined that the mineral deposit is a common variety, then a validity determination will be conducted, and a contest complaint will be issued.

Please notify us in writing if you plan to purchase the material. If you have any questions, or require additional information, please feel free to contact Cheryl Martinez of my staff at (801) 977-4371.

Sincerely,

Glenn A. Carpenter
Field Manager

cc: D. Wayne Hedberg
State of Utah
Division of Oil, Gas and Mining